

Senate bill No. 136, "An act for the relief of W. J. Salyer, and to validate donation warrant No. 509, and the survey made by virtue thereof, issued by G. W. Hockley, Secretary of War, on fourteenth of August, 1838, for 640 acres of land, to John Sharp."

A. D. SADLER, Chief Clerk.

Senator Pfeuffer offered the following resolution:

Whereas, The filthy condition of the matting on the floor of the Senate, which has not been looked after for nearly twelve months, and the neglected ventilation or airing of the Chamber, causes sickness of many of the members of the Senate; be it

Resolved, That the Sergeant-at-Arms of the Senate be required to have said matting removed by Monday morning, February 23, and new matting put down in its stead, the same to be paid for out of the contingent fund of the Nineteenth Legislature; and the floor thoroughly scoured, and all the windows and doors of the Chamber opened every morning for at least three hours before the commencement of the morning session, to admit fresh air, and to see that the said room is kept in better order than heretofore.

Adopted.

On motion of Senator Bell,

Senate bill No. 146, "An act to amend article 288 of the Code of Criminal Procedure," was taken up out of its regular order the second time.

Senator Davis moved to strike out the word "and" in line 12, between "number" and "style," and insert the word "or" in lieu thereof.

Adopted, and the bill was ordered engrossed.

On motion of Senator Getzendaner,

Senate bill No. 190, "An act for the relief of Thos. J. Hunter, Thadeus W. Hunter and Robert H. Hunter, for stock, corn and hogs consumed or destroyed by the Texas army in 1836," was taken up out of regular order, and

Read second time with unfavorable committee report.

The committee report was adopted and bill lost.

On motion of Senator Getzendaner,

Senate bill No. 208, "An act for the relief of D. C. B. Dunlap," was taken up,

Read second time with unfavorable committee report, and

On motion of Senator Woods,

The committee report was adopted and bill lost.

On motion of Senator Kleberg,

Senate bill No. 46, "An act for the relief of Wm. S. Boothe, S. F. Grimes et al," was taken up out of its regular order,

Read third time and passed by the following vote:

YEAS—22.

Bell,	Hall,	Pfeuffer,
Calhoun,	Houston of Bexar,	Pope,
Davis,	Jerdone,	Randolph,
Evans,	Kilgore,	Shannon,
Farrar,	Kleberg,	Terrell,
Fowler,	Knittel,	Traylor,
Garrison,	Peacock,	Woods.
Getzendaner,		

NAYS—none.

On motion of Senator Pope,

Senate bill No. 180, "An act to amend section 4 of chapter 67 of general laws of the State of Texas, passed at the regular session of Eighteenth Legislature," was taken up out of its regular order,

Read second time and ordered engrossed.

On motion of Senator Fowler,

Senate bill No. 176, "An act for the relief of and to refund to the city of Laredo, Texas, the amount

expended by it in the maintenance of quarantine during the yellow fever epidemic of 1882, and to make an appropriation therefor," was taken up out of its regular order, and

Read second time with unfavorable committee report, and on motion

The committee report was adopted and the bill lost.

On motion of Senator Fowler:

Senate bill No. 177, "An act for the relief, etc., of the city of Brownsville, etc.," was taken up out of regular order.

Read second time with unfavorable committee report.

The committee report was adopted and the bill lost.

Senator Davis moved to reconsider the vote by which the resolution of Senator Pfeuffer, instructing the Sergeant-at-Arms to clean up and scour out the Senate Chamber, was adopted.

Lost by the following vote:

YEAS—7.

Calhoun,
Davis,
Evans,

Fowler,
Garrison,

Hall,
Kilgore.

NAYS—14.

Bell,
Farrar,
Getzendaner,
Houston of Bexar,
Jerdone,

Kleberg,
Knittel,
Peacock,
Pfeuffer,
Pope,

Shannon,
Terrell,
Traylor,
Woods.

ABSENT, NOT VOTING.

Randolph.

On motion of Senator Shannon,

The Senate adjourned till ten o'clock Monday morning.

THIRTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, February 23, 1885. }

Senate met pursuant to adjournment.

Lieutenant-Governor Gibbs in the chair.

Roll called.

Quorum present.

Prayer by the House Chaplain, Dr. Smoot.

On motion of Senator Kleberg,

The reading of the journal of Saturday was dispensed with.

PETITIONS AND MEMORIALS.

By Senator Bell:

To the Hon. Barnett Gibbs, President of the Senate of the Nineteenth Legislature of the State of Texas:

Your memorialists, members of the Sheriffs' Association of the State of Texas, having the best interests of the State at heart, and believing that there is nothing of more importance than the proper enforcement of the criminal laws, respectfully suggest to your honorable body the following changes in our laws:

1. We recommend that the laws be so changed as to provide that when the sheriff conveys an attached witness out of his county for the purpose of testifying before a grand jury of another county, that he be compensated in the same manner as where the witness testifies in a felony case.

2. That when the sheriff conveys an attached witness out of his county to testify in a misdemeanor case, that he be allowed his actual expenses, to be paid by the county in which the prosecution is pending.

3. That the same fees be allowed the sheriffs for services rendered in an examining trial before a justice of the peace or other committing magistrate as are allowed for like services rendered in a final trial before a district court. It often happens that a sheriff has to convey a defendant from a distant part of the State before a justice for examining trial, at great expense to himself, and yet he is only allowed four dollars for his services. It is submitted that the peace officers are not able, however much they may be disposed to do so, to pursue and bring to justice the violators of the law when there is no adequate compensation provided for their labors, or even for repaying them their actual expenses, unless they can collect it from the defendants, which seldom ever happens.

4. That when a defendant forfeits his bond or recognizance and the same is collected, that the officers of the court where the prosecution is pending be allowed their fees for services rendered in the main case, to be paid out of the amount collected on the bond or recognizance.

5. That a descriptive list of all fugitives from justice be published annually and furnished the sheriffs of the various counties.

6. That parties to suits in civil cases sending out process to be served by sheriffs of other counties shall be required to send fees for said service in advance.

7. That for executing capias in misdemeanor cases in a county other than the one in which the case is pending, the sheriff or constable shall be entitled to the same fees allowed by law in felony cases; said fees to be paid by the county from which process issues. And that for serving writs in the county where prosecution is pending, mileage as in felony cases be allowed, payable by the defendant upon conviction.

8. That provision be made for issuance of capias for the arrest of parties convicted of felony who escape pending appeal, and that same fees be allowed as in original case; provided, that in no case shall any officer from whom such convict escapes receive any fees for his recapture.

H. E. BARKER,
President Sheriffs' Association.

Attest:

JOHN P. KIRK, Secretary.

Referred to Committee on State Affairs.

By Senator Hall:

Petition from the citizens of Duval county, against the disbanding of the frontier battalion.

Referred to Committee on Frontier Protection.

By Senator Evans:

Petition of twenty thousand citizens of the State of Texas, asking for the submission to a vote of the people of an amendment to the Constitution "prohibiting the manufacture and sale of intoxicating liquors."

Referred to Committee on Constitutional Amendments.

By Senator Kilgore:

Memorial from citizens of Van Zandt county, asking relief for A. C. Graham, D. L. Riley, et al.

Referred to Committee on State Affairs.

By Senator Calhoun:

Memorial from citizens of Coleman county, for prohibition.

Referred to Committee on Constitutional Amendments.

Senator Kilgore presented a purported memorial from a citizen of Dallas, relating to pending legislation, and asked to have it read in full.

Senator Calhoun raised the point of order that the memorial was out of order, as it had no name attached to it.

The point of order was sustained.

Senator Pope took an appeal from the decision of the chair.

The chair was sustained by a vote of the Senate.

REPORTS OF STANDING COMMITTEES.

By Senator Randolph:

COMMITTEE ROOM,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on State Affairs, to whom was referred Senate joint resolution No. 10, "delivering the property known as the Alamo to the city of San Antonio," have had the same under consideration, and instruct me to report it back with the recommendation that it do pass.

All of which is respectfully submitted.

RANDOLPH, Chairman.

BILLS AND RESOLUTIONS.

By Senator Kilgore:

"An act for the relief of A. C. Graham, Joshua Hallman et al."

Referred to Committee on State Affairs.

By Senator Hall:

"An act to create the Webb land district."

Referred to Committee on General Land Office.

By Senator Terrell:

"A bill to provide for the purchase and improvement of ten thousand or more acres of land for the use of the penitentiary system of Texas."

Referred to Committee on Penitentiaries.

By Senator Traylor, by request:

"An act for the relief of clerks and sheriffs, who may have performed services under the provisions of an act providing for the condemnation and sale of lands for delinquent taxes, approved June 2, 1873, by providing a mode for auditing their accounts, and making an appropriation for the payment of the same."

Referred to Committee on Claims and Accounts.

By Senator Jones, by leave:

Petition of the Geological and Scientific Association of the State asking to take charge of the New Orleans exhibit.

Referred to Committee on State Affairs.

On motion of Senator Farrar,

Senator Knittel was excused for the day.

On motion of Senator Pope,

Senator Johnson was excused for the day, on account of sickness.

On motion of Senator Fowler,

Senator Pfeuffer was excused for the day.

On motion of Senator Jerdone,

Alex Sampson, Esq., Calendar Clerk, was excused for the day.

On motion of Senator Kleberg,

Senate bill No. 64, "An act to provide for the management and control of the lands set aside for the benefit of the University of Texas," was taken up out of its regular order and made special order for Wednesday, after morning call.

On motion of Senator Farrar,

Senate bill No. 138, "An act to amend chapter 3, title 53 of the Revised Statutes of Texas by adding thereto article 2971a," was taken up out of its regular order and made special order for Wednesday, after morning call.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

I am instructed by the House to inform your honorable body of the passage of the following bills:

House bill No. 335, "An act to create and provide for the organization of the county of Midland."

House bill No. 473, "An act to amend sections 3, 4, 5, 106, 117, 156 and 158 of 'an act to incorporate the city of Galveston and grant a new charter,' approved August 2, 1876; amended by an act approved April 5, 1881, amended by an act approved March 7, 1883."

Also, to inform your honorable body of the following committee on the part of the House to act with a like committee of the Senate in arranging on behalf of the Legislature for celebrating the laying of the corner stone of the new Capitol, March 2: Linn, McKinney of Walker, Upton, Taylor, Moore of Travis.

A. D. SADLER, Chief Clerk.

The President referred the bills reported as follows:

House bill No. 335 to Committee on Counties and County Boundaries.

House bill No. 473 to Committee on State Affairs.

The President appointed Senators Shannon, Pope, Jones, Glasscock and Terrell on the part of the Senate on celebrating the laying of the corner stone of the new Capitol.

The following message was received from the Governor.

On motion of Senator Getzendaner the message, together with the accompanying reports, was ordered published in the journals:

To the Senate and House of Representatives:

I herewith transmit the statement of T. J. Goree, Superintendent, and Haywood Brahan, Financial and Purchasing Agent, of the penitentiaries, referring to that part of the report of the joint committee of the two houses touching the Rusk prison, and also the resignation of I. G. Searcy and Walter Tips, members of the Board of Managers of the penitentiaries, with their reasons for their action, all of which may be of some service in formulating a new management that now devolves on the Legislature.

Texas has not had more efficient and faithful public servants than these gentlemen have proven themselves to be.

JOHN IRELAND, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, February 20, 1885.

T. J. Goree, Haywood Brahan:

GENTLEMEN: As Superintendent and Financial and Purchasing Agent, I call your attention to the report of the committee of the two houses of the Legislature who recently visited the penitentiaries, and especially to that part relating to the Rusk penitentiary, including the Comer & Fairris contract and condition of the furnace. In short, the whole Rusk report I desire a full statement and explanation.

I am very respectfully your obedient servant,

JOHN IRELAND,
Governor.

AUSTIN, TEXAS, February 20, 1885.

Governor John Ireland, Austin, Texas:

Your favor of even date to hand, calling attention to the report of the joint committee of the Senate and House of Representatives who recently visited our penitentiaries at Huntsville and Rusk, and asking an explanation on our part in regard to the criticisms made by said committee in reference to the Comer & Fairris contract, and the feeding, punishment, etc., of the convicts at the Rusk penitentiary.

In reply, we would state that Senators Jones, Kleberg and Kilgore, and Representatives Haynes, Kimbrough and Hendry met and organized at Huntsville on Tuesday morning, the tenth instant, by electing Senator Jones chairman, and arrived at the superintendent's office about eleven o'clock a. m., and proceeded to inspect the Huntsville penitentiary, going through the cell buildings, chapel, dining room, kitchen, shops, etc.

We, in conjunction with Captain Ben E. McCulloch, assistant superintendent, offered them every facility to assist them to make a thorough investigation of everything pertaining to the management of our penitentiaries, telling them that, as servants of the people in the management of our peniten-

tiaries, we had nothing to conceal from the public, and that if any errors had been committed, we were as anxious to find it out as they could possibly be. We further told the members of the committee that all we demanded was, if any charges were made against us, or anyone connected with the penitentiary in any official capacity, by any citizen or convict that we be allowed a hearing before the committee in answer to any such charges. In the afternoon of same day Senator Kilgore and Hon. Mr. Haynes were chosen as a sub-committee to visit the Wynne farm, owned and operated by the State, near Huntsville. At 6 o'clock p. m. of same day the committee left for Rusk, and we accompanied them. At Phelps, eight miles from Huntsville, when en route to Rusk, the committee were joined by Representative Moore, who proceeded with them to Rusk. The committee arrived at the prison at Rusk between 11 and 12 o'clock a. m. on Wednesday, the eleventh instant, and remained until 2 o'clock p. m. Thursday, the twelfth instant, when they left for Austin.

Immediately after arriving at the Rusk penitentiary, the committee proceeded to inspect the cell buildings, dining room, kitchen, store room or commissary, chapel, hospital, laundry, and the different shops within the walls, and the iron furnace outside of the walls of the penitentiary.

After dinner the committee met in one of the rooms of the administrative building, and proceeded to examine witnesses in reference to the supplemental contract with Messrs. Comer & Fairris and the final settlement with them on the surrender of their contract. In the meantime the committee, through their chairman, wrote out a notice, and had it sent over and posted up in the town of Rusk, informing the citizens that they were in session at the penitentiary, and inviting any one who had any complaint or charges to make against the management or officers of the penitentiary to appear before them.

In our examination before the committee we were only questioned about the supplemental contract and final settlement with Messrs. Comer & Fairris, and asked a few questions about expenses, appropriations, etc., for the future.

As regards punishment of convicts, the committee examined convicts, and the most of them convicts of the worse character, who voluntarily appeared before them. Any one familiar with the character and discipline of convicts knows that it is always the worse character of convicts who are ready to volunteer information (manufactured to suit their purposes) to State officers and visiting committees of the Legislature as regards their treatment, and we state that such was the character of the majority of the convicts examined by the committee, many of whom had been punished for escapes, attempts to escape and other mutinous and disorderly conduct.

The committee did not consult the prison records at Rusk, or give the officers of the prison an opportunity to be heard in their own defense on the charges made by the class of convicts mentioned, in regard to cruel and excessive punishment. We feel it to be our duty to state in justice to Capt. F. P. O'Brien, assistant superintendent of the Rusk penitentiary, who has immediate charge of, the control and discipline of convicts, that he is a humane, efficient and attentive officer, and would not countenance cruel treatment or excessive punishment of convicts. And we further state that the records at the Rusk penitentiary show every time any convict was punished, for what offense, and the manner, amount and mode of punishment that was inflicted, and the witnesses who were present when the same was administered. We emphatically deny that when whipping has been resorted to as the mode of punishment, that any convict was ever struck over twenty-nine lashes at any one time for the same offense. This we are prepared to prove by the records of the prison, and the sworn testimony of all the officers, sergeants and guards, as well as by the testimony of the best class of convicts of said prison.

THE KILLING OF GOODALL.

Goodall was a convict from Lamar county, serving his second term. He was generally considered one of the worst and most desperate convicts in the prison. He had committed a murderous assault on convict Newton with a bar of iron, and was ordered punished for it. When taken out of his cell for the purpose, he broke away from the guards and declared that he would be killed before he would submit to punishment. This all created a terrible excitement amongst the few guards who were present, as well as the convicts who were locked up in the cells. The underkeeper, Mr. Hughes, ran into the office where the superintendent (Goree) was, and

told him of the situation. The instructions given him by the superintendent were to hurry back and try to capture and subdue Goodall, without using violent means, and under no circumstances to permit any shooting. He started out of the office and had gotten but a few steps when the report of a gun shot was heard, and it was found that Goodall, who was making violent threats and demonstrations at the time, was shot by some one from the window in the third story over the guards' room. Goodall died the next day. When an inquest was held, presided over by Mr. E. C. Dickinson, justice of the peace, who, after hearing all the evidence, exonerated the guard. Guyton, who did the shooting, had been guarding a long time, and had always been a humane, faithful and efficient guard; hence was retained by the assistant superintendent. Soon afterwards the district court of Cherokee county met, and this killing was fully investigated by the grand jury, and no bill was found. It may be mentioned that in a moment after the shooting, when the superintendent reached the cell building, the most intense excitement prevailed, and it seemed as if bedlam had broken loose. It was a considerable while before quiet could be restored. In our opinion, expressed at the time and since, this killing was unnecessary and unjustifiable, and could only be excused because of the intense excitement prevailing at the time. No one more than ourselves and the assistant superintendent deprecate this truly unfortunate affair.

FOOD.

As to the report of the committee in regard to the food furnished at the Rusk penitentiary, we will say that since the surrender of the Comer & Fairris contract, on the fourteenth of September last, the State has fed the convicts, and the Financial Agent is alone responsible for the quality and variety of the food since that date, as he purchases all provisions for both penitentiaries. The steward is responsible only for the preparation and distribution of the food. The provisions purchased for both prisons, except beef, are purchased from the same parties, and if complaints are true, as made in regard to the quality of the food at the Rusk penitentiary, it seems that similar complaints would have been made at the Huntsville penitentiary, where no complaints whatever were made. As to the variety of food, the provision reports on file with the secretary of the Penitentiary Board, which are subject to inspection, will show the amount of each kind of provisions issued at each penitentiary during each month last year, and the month of January this year. These reports will show that the variety of food is much the same at both penitentiaries, and a recent calculation made by the superintendent demonstrates the fact that the cost of feeding at Rusk has been about two cents per day per convict more than at Huntsville. When the committee visited Rusk there was stored in the commissary building the usual monthly supply of provisions, consisting of bacon, flour, meal, sugar, coffee, molasses, onions, beans, rice, dried apples, potatoes, etc. In addition to these articles, constantly kept on hand, good fresh beef has been furnished from two to four times per week. The dinner furnished the convicts on the day of the visit of the committee consisted of good substantial food, and was a fair average dinner.

From September 14, 1884, until the middle of December, the superintendent was nearly all the time at the Rusk prison. He daily visited the prison kitchen and dining room, saw for himself the quantity, quality and variety of food furnished the convicts, talked with the convicts about food, and here alleges that not a single complaint was made to him in regard to the food or its preparation. The prison physician, Dr. Jamison, has told us that there has been no cause of complaint against the culinary department since the State has been feeding.

It is to be regretted that the committee, in hearing the complaints of convicts in regard to the food and its preparation, did not get the dates of the alleged irregularities, so as to have shown whether they occurred prior to or after the State commenced feeding. During the Comer & Fairris contract they fed the convicts and guards, and employed their own steward. Occasionally complaints were made of the quality and preparation of the food, which upon demand from the State officers were remedied. Finally we had a guard placed in the kitchen to look after the convict cooks and waiters, and to see to the quality and preparation of food. We apprehend that the committee are under the impression that the steward of Comer & Fairris, Mr. Green, is still in charge; such is not the case, but the present steward is Mr. Grammar, who we think is a faithful, diligent and efficient officer. We plead guilty to feeding cold bread, because, in baking for such a

number of convicts it is impossible to furnish it otherwise.

If any mouldy bread has been furnished at any time, it has been accidental. No better bread is made anywhere than the flour bread at the Rusk penitentiary. The corn bread is made and baked just as corn bread on the outside. If beef at any time is scant, it is supplemented with bacon. There is no limit of food at either penitentiary, but every convict is supplied until he is satisfied. It has no doubt frequently occurred, even under State management, that certain articles of food have not been properly prepared, but such things will occur in the best regulated families. It may be proper to mention that some time since, when your Excellency and other members of the Penitentiary Board visited Rusk and thoroughly investigated similar complaints, you found them without foundation. The healthful appearance of the convicts at Rusk clearly indicates that they are not improperly fed. If opinions are based upon and conclusions drawn from unsupported convict testimony, no officer's character or reputation can be safe.

IRON FURNACE, WATER SUPPLY, ETC.

As regards the iron furnace and industries at the Rusk penitentiary, we beg to state that the furnace has been idle since the surrender of the Comer & Fairris contract, and we have done nothing in the different shops, except finish up some partly finished wagons and furniture received from Comer & Fairris, and such general repair work as we could get, for the reason that we had no available appropriation at our command with which to run the furnace and buy material with which to run the shops. The furnace is in good condition, except a change in the bosh, which was made by Comer & Fairris, from the manner of its original construction. The furnace can be changed back as originally constructed within a very short time by convict labor, at a nominal cost for the material necessary. The water supply, with which to operate the furnace, is ample and sufficient, and there has never been any difficulty on account of the water supply. It is true the timber is scarce and stumpy immediately around Rusk, but on the line of the K. & G. S. L. R. R. tracts of woodland can be bought at reasonable prices to make all the coal necessary to run the furnace for years to come. In regard to the Comer & Fairris contract and final settlement with them, we do not know that we can give any fuller explanation than is made in our biennial reports, to which reference is respectfully made.

Very respectfully your obedient servants,

THOMAS J. GORKE,
Superintendent of Penitentiaries.

HAYWOOD BRAHAN,
Financial Agent State Penitentiaries.

AUSTIN, TEXAS, February 19, 1885.

Hon. John Ireland, Governor of Texas:

DEAR SIR: The report of the Penitentiary Committee, which doubtless you have seen, renders it necessary, in our judgment, to sever our connection with that institution, and in doing so we deem it but just to ourselves to reply briefly to some of the statements contained therein, especially as no opportunity was given us to contradict the evidence upon which the report is founded. Several of the gentlemen composing that committee, both of the Senate and House, are known to us, and for whose opinions we entertain the highest respect, but for this very reason we feel it incumbent upon us to say a few words in our own justification. The Board was perfectly familiar with the facts of the shooting of the man named in the report. It is possible he might have been retaken without being shot. We can all discover, after important events have transpired, how it was possible to have accomplished a different and better result in some other way. The best organized systems under the wisest management are liable to such a catastrophe in the excitement and confusion of such an occasion.

All persons at all familiar with the management of convicts know (and those not familiar ought to know) that once let it be understood among them that guns will not be used, and it will not only put an end to all discipline, but they could neither be taken to the prison nor let out of their cells when there. We shoot a burglar or thief. An officer arresting a supposed criminal will shoot him, and all applaud, but the moment a man is proven a criminal and condemned for some deadly offence against the laws of society, if thereafter he is slain in an effort to regain his freedom (perchance by murdering or attempting to murder his guard) it is spoken of as an outrage. The bruise spoken of in the report as having been seen on the man's back is not traced to any management, any

particular person, or date. It is not shown whether it was done in the prison, by the man's neighbors, for some crime, or received when a boy in a game of lap jackets.

It is known that corporal punishment to be effective cannot be inflicted without leaving marks and bruises. The manner of whipping and number of lashes, if indeed, the man was ever whipped in prison, could have been determined exactly by reference to the prison records, as a record is kept of every case of punishment, number of lashes administered, with names of witnesses, etc. But to prevent marking with the lash you must provide against the efforts of the party to release himself—then must have a guage and exact nerves to insure a perfectly flat stroke with the strap.

In cooking for five hundred or six hundred men, the cooks being convicts, to have unsavory bread occasionally, or for a piece of meat to be tainted once or even more often, is for convicts, beyond endurance, but such can be tolerated in society, in the best regulated families, and good housewives are not unfrequently necessitated to exchange cooks for this cause every few weeks, and bear the infliction without a murmur. It is pertinent here to say that Dr. Jamison, who is referred to by the committee as having made complaints as to the quality of prison fare, is a gentleman of unquestioned ability and integrity; that on account of his possession of these qualities he was appointed prison physician, and that during the continuance of the contract with Comer & Fairris (at which time they furnished provisions,) he made these complaints in the honest discharge of his duty, to protect the convicts from imposition as to food, and compel the contractors to furnish that which was good and wholesome only, but it was never suspected by him that his action in this behalf would, under the operation of convict testimony, become a boomerang. Verily the pathway of the prison managers is beset with pitfalls, when their very efforts to protect the convicts from the imposition of bad food is seized upon and gravely urged as a proof of mismanagement. The reference to the contract and settlement with Comer & Fairris does equal injustice to the entire management. The State was not in a condition to operate the iron interest, and advertised for bids. Comer & Fairris were the only bidders. They resided in Alabama and had no acquaintances in Texas, and to have exacted Texas securities would have been to decline the contract. Even as it turned out, we believe the State was largely benefitted. If the contract had not been made the convicts would have been idle almost the entire time, at a heavy expense to the State.

Railways were declining to hire, and that Comer & Fairris failed was a misfortune both to them and the State; but furnaces all over Pennsylvania, Virginia, Alabama and other States have closed up by the score in the last twelve months, because of hard times and low prices of iron. The truth is, we know the report has done the management, as well as Capt. O'Brien and Mr. Parrish, who represent it at Rusk (both reliable and worthy gentlemen and efficient officers), great injustice, in this, that convict evidence was taken and made the basis of the report, without allowing either of those gentlemen at Rusk or the board at Austin to controvert it by testimony of a much higher character. We cannot believe the omission was intended or designed to cast reflections upon us; but, nevertheless, that it is generally so understood is a stubborn fact. There is a class of jurors commonly called "professionals," whose genial faces are ever found in the pathway of the sheriff, whilst the better class of citizens hie away from his approaching footsteps. So, our experience has shown us that the reckless and unruly convict is ever on the alert to interview the prison investigator, whilst the modest and well behaved among them (and there are many such) wait for an invitation to speak.

If convict testimony is admitted, it is but fair that their evidence should have weight only in proportion to their good character as shown by the record, for a full and complete record is kept of each convict's behavior. Two years ago the penitentiaries were thrown on the hands of the present board. It has made them self-sustaining. Not a dollar for current expenses has been used, and the board, notwithstanding the pressure of hard times, still has money to its credit. The mortality from all causes (including violence) has greatly decreased from what it was formerly.

Honestly believing from the action of the last and previous Legislature in building a penitentiary in the iron region of the State, and furnishing the same with costly machinery for its manufacture, that the people of Texas desired to develop the iron interest of the State, the board has endeavored (so far as their limited means would permit) to carry out that

purpose. Correspondence with the leading iron manufacturers of the United States has elicited from each and all of them, without exception, the opinion that the failure of Comer & Fairris to make first class iron successfully with a large yield or per cent, was attributable not to the character of the furnace or ore used (both of which they pronounced first class), but their bad management in placing in charge of their business an incompetent man. Hence, from the best sources of information attainable, we believed the experiment of Comer & Fairris not a fair test, and that to abandon the enterprise without such test would be exceedingly unwise, not to say costly. Experts and chemists of the highest attainments have pronounced the ore first class, and in great abundance, which the board has published to the world, but in the future the management will be confronted with the startling declaration, by a minority of the committee, that the ore is of inferior quality. The grave error committed by us in the settlement with Comer & Fairris was that we believed the State was in earnest as to testing this question, that her great outlay for that purpose was not a joke, but was made in honest sincerity. Hence, in that settlement we were so blind as to receive in payment of an exceedingly doubtful debt property absolutely necessary to carry out the very purpose for which the penitentiary and furnace were built, such as wood, coal, etc.

The mode adopted by the board for valuing this property was fair to both the State and Comer & Fairris, and the one universally adopted in such cases. If the State suffered in this valuation, it is for the Legislature to investigate and determine upon whom the responsibility lies. What Texas wants is stability in her laws and policy. If an industry inaugurated by one Legislature is pulled down by another before a fair test is made of its practical results, we see no hope of solving, so long as this policy prevails, the very complicated and difficult problem of successful penitentiary management.

Believing, therefore, that our honest efforts to discharge our duty faithfully have signally failed to satisfy those in authority over us, we hereby respectfully tender our resignations as members of the Penitentiary Board, to take effect from this date.

Respectfully,

I. G. SEARCY,
WALTER TIPS.

On motion of Senator Kleberg,
Senator Pope was excused for the day, on account of sickness.

Senate bill No. 77, "An act to further regulate the collection of taxes on real estate, including lands heretofore bought by the State at delinquent tax sales," and

Senate bill No. 194, "An act to provide for the sale of all real estate bid off to the State by collectors of taxes at tax sales, the owners of which have not redeemed the same," being the first special orders, were laid before the Senate.

On motion of Senator Traylor,

Senate bill No. 194 was postponed indefinitely, and Senate bill No. 77, was read and considered by sections.

Senator Traylor offered the following amendment:

Add to section 1, "and the collector on vacating his office shall deposit the same with the county treasurer for the purposes for which said money was received by him, and the county treasurer shall pay over said money to the purchaser on demand."

Adopted.

Senator Bell offered to amend by adding, after the word "interest," in line 11, the words, "at eight per cent per annum."

Adopted.

Section one was adopted as amended.

Senator Traylor offered the following amendment:

Add to section 2: "But no sale shall be made as provided in this section until the expiration of six months after this act goes into effect."

Lost.

Senator Kilgore offered the following amendment:

Amend section 2 by adding to the section the following words: "Provided, that if there should be a contest at the sale of any land offered for sale under this section, the former owner of such land shall have the prior right to purchase the same at said sale."

Withdrawn.

Senator Traylor offered the following amendment:

In the beginning of line nineteen add "advertised and."

Adopted.

As amended section 2 was adopted.

Senator Traylor offered to amend section 3 as follows:

After the word "Comptroller," in line six, insert "in such cases as the Comptroller may require."

Adopted.

Section 3 as amended was adopted.

Section 4 was adapted.

Senator Traylor offered the following amendment section 5:

In line ten, after the word "owners," add "or whether the taxes have been paid on such lands or whether such lands legally exist as valid surveys."

Adopted.

Senator Traylor offered the following amendment section 5:

In line 14, after the word "cause," insert:

"He shall strike the same from the rolls if the taxes have not been paid thereon, or if no such valid surveys exist in the county, or if there was an error in the assessment."

Adopted.

Senator Traylor offered the following amendment:

In line 7, after the word "county," insert "with the aid of county surveyor."

Adopted.

Senator Evans in the chair.)

In motion of Senator Kleberg,

the Senate reconsidered the vote by which the amendment of Senator Traylor to section 2 was lost. Senator Kleberg offered the following substitute amendment:

Insert in line 18 the words "and at the same time," after the word "manner."

Accepted and adopted.

Senator Traylor offered the following amendment:

Add to section 5, "and furnish the Comptroller a list of such lands for cancellation."

Adopted.

Section five, as amended, was adopted.

Senator Davis offered the following amendment:

In section six section eight (next to the emergency clause).

Adopted.

Senator Traylor offered the following:

Amend section six as follows, and conform the numbers of the sections thereto:

"6. For services herein provided the surveyor and assistants shall each be allowed three dollars per day for not more than five days, to be paid by the commissioners' court."

Adopted.

Section 7 was adopted.

Senator Davis offered the following amendment:

Change section 8 so as to be an imperative public necessity clause only.

Adopted.

Senator Calhoun offered the following amendment:

Sec.— Whenever any land is sold to any person under the provisions of the act, and it shall afterwards appear by judicial investigation or otherwise, that all of the amount of taxes, costs and other charges against said land, for which the same was sold, were not lawful and due, but that only a part of the same was due, such fact shall not void the sale and purchase of said land, but said sale shall be valid and binding for an undivided portion of said land so purchased, of the same proportion and ratio to the whole amount purchased as the amount of lawful taxes and costs due bears to the whole amount of supposed taxes and costs and charges supposed and charged to be due at the time said land was so sold.

Lost, and the bill was ordered engrossed.

Senator Bell offered the following privileged report:

COMMITTEE ROOM,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills, have carefully examined Senate bill No. 182, being "An act to amend articles 151 and 153, chapter 2, of title 6 of the Penal Code," and find the same correctly engrossed.

All of which is respectfully submitted.

BELL, Chairman.

COMMITTEE ROOM,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 204, being "An act to prohibit sheriffs and witnesses from charging fees, mileage or expenses in certain cases," and find the same correctly engrossed.

BELL, Chairman.

COMMITTEE ROOM,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 124, being "An act to amend section 2 of an act entitled 'an act to provide for the payment of attached witnesses in felony cases,' and find the same correctly engrossed."

All of which is respectfully submitted.

BELL, Chairman.

COMMITTEE ROOM,
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 180, being "An act to amend section 4 of an act entitled 'an act to redistrict the State into judicial districts, and to fix the times for holding courts therein, and to provide for the election of judges and district attorneys in said districts of the next general election, to be held on the first Tuesday after the first Monday in November, 1884,' and find the same correctly engrossed."

BELL, Chairman.

Senator Hall entered a motion to reconsider the vote by which the Senate adopted the adverse reports of the Committee on Claims and Accounts on the bills for the relief of the cities of Brownsville and Laredo in certain quarantine expenditures.

On motion of Senator Davis,

The constitutional rule was suspended and the bill placed on its final passage by the following vote:

YEAS—21.

Bell,
Calhoun,
Davis,
Evans,
Farrar,
Fowler,
Garrison,

Getzendaner,
Glasscock,
Hall,
Harrison,
Houston of Wheeler,
Jerdone,
Jones,

Kilgore,
Kleberg,
Peacock,
Randolph,
Terrell,
Traylor,
Woods.

NAYS—none.

ABSENT, NOT VOTING.

Houston of Bexar, Shannon.

The bill was read third time and passed.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES.
AUSTIN, February 23, 1885.

Hon. Barnett Gibbs, President of the Senate:

I am instructed to report to your honorable body the passage of Senate bill No. 137, "An act to repeal sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 25, 27, 28, 30, 31, 83, 198, 199 and 200, and to amend sections 2, 4, 5, 6, 29, 33, 43, 45, 70, 74, 78, 103, 120, 197, 201, 202 and 203 of an act entitled 'an act to incorporate the city of San Antonio and grant a new charter to said city,' approved August 13, 1870, and to repeal 'an act to incorporate the city of San Antonio,' approved July 17, 1856, and 'an act to amend the act to incorporate the city of San Antonio,' approved February 11, 1860, also an act to amend an act entitled 'an act to incorporate the city of San Antonio and grant a new charter to said city,' approved April 18, 1879."

Respectfully,

A. D. SADLER, Chief Clerk.

On motion of Senator Harrison,

Senate bill No. 189, "An act to annul and cancel all locations and surveys made thereunder and patents issued upon any land situate in the county of Greer, and to restore said lands to the respective funds to which they belong," was taken up and made special order for Thursday after morning call.

(The President in the chair.)

On motion of Senator Jones,

Senate bill No. 174, "An act to amend section 4 of 'an act to provide for an organization of a board to direct, supervise, control,' etc., was taken up out of its regular order and read the second time.

On motion of Senator Jones,

The committee amendment was adopted.

Senator Evans offered the following amendment:

Amend by adding section 5: "And there is hereby appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to carry this law into effect.

Adopted.

Senator Harrison moved to reconsider the vote just taken.

Adopted, and

The amendment was withdrawn.

Senator Glasscock offered the following amendment:

Amend by adding:

Section 2. Whereas an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Lost, and

The bill was ordered engrossed.

Senate bill No. 65, "An act to amend article 690, chapter 90 of the Penal Code," was laid before the Senate as the second special order, and read second time with committee substitute, and

On motion of Senator Woods,

The committee substitute was adopted and ordered engrossed.

Senate joint resolution No. 1, "Proposing an amendment to section 12, of article 8 of the Constitution," was laid before the Senate in its regular order, and read third time and lost by the following vote:

YEAS—18.

Bell,
Calhoun,
Farrar,
Fowler,
Garrison,
Getzendaner,

Glasscock,
Hall,
Harrison,
Houston of Wheeler,
Jerdone,
Jones,
Kilgore,
Kleberg,
Randolph,
Shannon,
Terrell,
Traylor.

NAYS—3.

Davis,

Evans,

Peacock.

ABSENT, NOT VOTING.

Houston of Bexar.

Senator Houston of Wheeler entered a motion to reconsider the vote just taken.

Senator Davis raised the point of order that Senator Houston had voted on the losing side and could not move a reconsideration.

The point of order was sustained.

Senator Davis entered a motion to reconsider the vote just taken.

The President laid before the Senate Senate bill No. 120, "An act to confer upon county courts jurisdiction in cases of contested elections."

The bill was read third time and passed.

Senate bill No. 125, "An act to amend articles 1719, 1720, 1721, 1722, 1723, 1731, 1743, 1744 and 1752 of chapter 6, title 34 of the Revised Civil Statutes," was laid before the Senate, read third time and passed.

On motion of Senator Kleberg,

Senator Houston of Bexar was excused for the day.

Senator Peacock introduced a bill entitled "An act amendatory of 'an act relating to the commission of arbitration and award, defining the powers and duties thereof, and to make appropriations to pay the salaries of the judges thereof,' approved March 20, 1883, and which was amendatory of an act relating to the same subject, approved February 9, 1881.

Referred to Judiciary Committee No. 1.

On motion of Senator Davis,

The regular order of business was suspended, and Senate bill No. 187, "An act confirming patents and surveys by virtue of headright, military and bounty warrants issued under special laws enacted after March 31, 1870, and prior to April 18, 1876," was taken up and read second time.

First and second committee amendments were adopted.

The President signed House bill No. 116, "An act to amend section 18 of an act entitled 'an act to redistrict the State into judicial districts, and fix the times for holding court therein, etc.'"

On motion of Senator Calhoun,

The Senate adjourned till 10 o'clock to-morrow morning.

THIRTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, February 24, 1885. }

The Senate met pursuant to adjournment.

Lieutenant-Governor Gibbs in the chair.

Roll called.

Quorum present.